

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

DAMIEN DERRELL LINDSAY

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:15CV357-LG-RHW

EVAN HUBBARD et al

DEFENDANTS

**PROPOSED FINDINGS OF FACT AND RECOMMENDATION**

Plaintiff Damien Derrell Lindsey, proceeding *pro se* and *in forma pauperis*, filed a 42 U.S.C. § 1983 prisoner civil rights complaint alleging various claims including, but not limited to, false imprisonment, due process violations, slander, race discrimination, and unconstitutional conditions of confinement. Doc. [1]. Pursuant to the Court's order of February 12, 2016, all Defendants executed waivers of service on February 25, 2016. Doc. [8], [10], [14], [15], [16], [17], [18] & [19]. Based on the waivers of service, Defendants answers were due on April 12, 2016. On March 16, 2016, Plaintiff filed a motion for default judgment asserting that Defendants failed to respond to the Court's Order of February 12, 2016.

Defendants timely executed the waiver of service forms within two weeks of receiving them and prior to the 30 day deadline established by the Court. Defendants then filed timely answers to Plaintiff's complaint on April 12, 2016. Doc. [21] & [22]. Based on the foregoing, the undersigned finds that Plaintiff's motion for default is without merit and should be denied.

**RECOMMENDATION**

The undersigned recommends that Plaintiff's [20] Motion for Default Judgment be DENIED.

**NOTICE OF RIGHT TO APPEAL/OBJECT**

Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to this report must serve and file written objections within fourteen (14) days after being served with a copy unless the time period is modified by the District Court. A party filing objections must specifically identify those findings, conclusions and recommendations to which objections are being made; the District Court need not consider frivolous, conclusive or general objections. Such party shall file the objections with the Clerk of the Court and serve the objections on the District Judge and on all other parties. A party's failure to file such objections to the proposed findings, conclusions and recommendation contained in this report shall bar that party from a de novo determination by the District Court. Additionally, a party's failure to file written objections to the proposed findings, conclusions, and recommendation contained in this report within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the proposed **factual findings and legal conclusions** that have been accepted by the district court and for which there is no written objection. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1428-29 (5th Cir. 1996).

SO ORDERED, this the 9th day of June, 2016.

/s/ Robert H. Walker  
ROBERT H. WALKER  
UNITED STATES MAGISTRATE JUDGE